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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 THIEN CHI HUU NGUYEN,

12 Plaintiff,

13 v.

14 CARLOS DEL TORO, CHARLOTTE A.
15 BURROWS,

16 Defendant.

17 CASE NO. 3:25-CV-5100-TMC

18 ORDER RENOTING APPLICATION
19 TO PROCEED *IN FORMA PAUPERIS*
20 AND DIRECTING AMENDED
21 COMPLAINT BE FILED

22 The District Court has referred Plaintiff Thien Chi Huu Nguyen's pending Application to
23 Proceed *In Forma Pauperis* ("IFP") and proposed complaint to United States Magistrate Judge
24 David W. Christel pursuant to Amended General Order 11-22. On February 6, 2025, Plaintiff
25 filed a proposed civil complaint and application to proceed *in forma pauperis* ("IFP"). *See* Dkts.
26 1; 1-1.

27 **Legal Standard.** The district court may permit indigent litigants to proceed IFP upon
28 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the "privilege
29 of pleading *in forma pauperis* . . . in civil actions for damages should be allowed only in
30 exceptional circumstances." *Wilborn v. Escalderon*, 789 F.2d 1328 (9th Cir. 1986). The Court

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1 has broad discretion in denying an application to proceed IFP. *Weller v. Dickson*, 314 F.2d 598
 2 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). When the privilege is abused, permission to
 3 proceed IFP may be denied. *See Demos v. U.S. Dist. Court for Eastern Dist. Of Washington*, 925
 4 F.2d 1160, 1160-61 (9th Cir. 1991); *see also In re Sindram*, 498 U.S. 177, 180 (1991) (“In order
 5 to prevent frivolous petitions for extraordinary relief from unsettling the fair administration of
 6 justice, the Court has a duty to deny *in forma pauperis* to those individuals who have abused the
 7 system.”); *Johnson v. Irby*, 2009 WL 1973510, at *3 (N.D. Fla. July 8, 2009) (“A court may
 8 deny IFP status prospectively when the number, content, frequency, and disposition of a
 9 litigant’s filings show an abusive pattern.”) (internal quotations omitted).

10 Notwithstanding IFP status, the Court must subject each civil action commenced pursuant
 11 to 28 U.S.C. § 1915(a) to mandatory screening and order the *sua sponte* dismissal of any case
 12 that is “frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks
 13 monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B);
 14 *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (“[T]he provisions of 28 U.S.C. §
 15 1915(e)(2)(B) are not limited to prisoners.”); *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th Cir.
 16 2000) (en banc) (noting that 28 U.S.C. § 1915(e) “not only permits but requires” the court to *sua
 17 sponte* dismiss an IFP complaint that fails to state a claim). An in IFP complaint is frivolous if “it
 18 ha[s] no arguable substance in law or fact.” *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368,
 19 1369 (9th Cir. 1987) (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *see also*
 20 *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

21 A *pro se* plaintiff’s complaint is to be construed liberally, but like any other complaint it
 22 must nevertheless contain factual assertions sufficient to support a facially plausible claim for
 23 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550

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1 U.S. 544, 570 (2007)). A claim for relief is facially plausible when “the plaintiff pleads factual
 2 content that allows the court to draw the reasonable inference that the defendant is liable for the
 3 misconduct alleged.” *Iqbal*, 556 U.S. at 678.

4 Unless it is clear a *pro se* plaintiff cannot cure the deficiencies of a complaint, the Court
 5 will provide the *pro se* plaintiff with an opportunity to amend the complaint to state a plausible
 6 claim. *See United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011) (“Dismissal
 7 without leave to amend is improper unless it is clear, upon de novo review, that the complaint
 8 could not be saved by any amendment.”).

9 **Proposed Complaint.** Because Plaintiff filed this proposed complaint *pro se*, the Court
 10 has construed the pleadings liberally and has afforded Plaintiff the benefit of any doubt. *See*
 11 *Karim-Panahi v. Los Angeles Police Dep’t*, 839 F.2d 621, 623 (9th Cir. 1988). In the proposed
 12 complaint, Plaintiff names Carlo Del Toro, the Secretary of the Navy, and Charlotte A. Burrows,
 13 the “Chair of Equal Employment of Opportunity,” as defendants in this case. Dkt. 1-1. He
 14 appears to allege the Naval Undersea Warfare Center rescinded an employment offer made to
 15 Plaintiff for employment at the Key Port Division, located in Washington State. *Id.* He alleges
 16 claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, and the
 17 Age Discrimination Employment Act of 1967, 29 U.S.C. §§ 621 to 634. Dkt. 1-1.

18 **Plaintiff’s Application to Proceed IFP.** Plaintiff states he is unemployed and a review
 19 of his Application to Proceed IFP shows he cannot afford the filing fee. *See* Dkt. 1.

20 **Analysis of Plaintiffs’ Claims.** Notwithstanding his inability to pay, the Court finds
 21 Plaintiff’s proposed complaint fails to state a claim upon which relief can be granted. Federal
 22 Rule of Civil Procedure 8 requires a complaint to contain “a short and plain statement of the
 23 claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). “Each allegation must

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1 be simple, concise, and direct.” Fed. R. Civ. P. 8(d). Plaintiff’s proposed complaint fails to
 2 provide a short and plain statement articulating his claims for relief and how the two named
 3 defendants are liable. *See Dkt. 1-1.* He fails to clearly explain how Defendants Del Toro and
 4 Burrows violated Title VII of the Civil Rights Act or the Age Discrimination Employment Act.
 5 Plaintiff’s conclusory and vague allegations are not sufficient to state a claim.

6 Further, while Plaintiff attached approximately 100 pages of exhibits, “the Court cannot
 7 glean what claims for relief might lay hidden in the narration provided by [P]laintiff and it is
 8 [P]laintiff’s responsibility to make each claim clear and provide only a short statement of facts
 9 supporting [each] claim.” *Henderson v. Scott*, 2005 WL 1335220, at *1 (E.D. Cal. May 4, 2005),
 10 Therefore, Plaintiff is ordered to file an amended complaint which complies with Federal Rule of
 11 Civil Procedure 8 and this Order. The Court notes that exhibits are not a substitute for a well-
 12 pled complaint. Plaintiff is directed to include all allegations and relevant facts in the body of the
 13 proposed amended complaint.

14 **Leave to Amend.** Unless it is absolutely clear that no amendment can cure the defect, a
 15 *pro se* litigant is entitled to notice of the complaint’s deficiencies and an opportunity to amend
 16 prior to dismissal of the action. *See Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir.1995). In
 17 this case, the Court finds Plaintiff should be afforded an opportunity to amend his proposed
 18 complaint to try to state a claim.

19 **Decision on Application to Proceed IFP.** A district court may deny leave to proceed *in*
 20 *forma pauperis* at the outset if it appears from the face of the proposed complaint that the action
 21 is frivolous or without merit. *Minetti v. Port of Seattle*, 152 F.3d 1113 (9th Cir. 1998), quoting
 22 *Tripati v. First Nat'l Bank & Trust*, 821 F. 2d 1368, 1370 (9th Cir. 1987). Based upon the above
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1 analysis of the deficiencies in the proposed complaint, the Court finds it appropriate to re-note
2 Plaintiff's application to proceed IFP (Dkt. 1) to March 14, 2025.

3 Accordingly, it is hereby **ORDERED** that:

- 4 • Plaintiff's application to proceed *in forma pauperis* (Dkt. 1) is **RENOTED** to **MARCH**
5 **14, 2025**; and
6 • Plaintiff's proposed amended complaint, if any, **IS DUE** on or before **MARCH 14,**
7 **2025.**

8 If Plaintiff fails to adequately respond to this Order and file an amended complaint by
9 March 14, 2025, the Court will recommend Plaintiff's Application to Proceed IFP be denied and
10 this case be dismissed.

11 Dated this 12th day of February, 2025.

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13 _____
14 David W. Christel
United States Magistrate Judge

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